

Commissioner for Patents
Reply to Office Action of December 1, 2006
Page 5

Serial No. 09/892,615

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REMARKS/ARGUMENTS

Claims 1 through 16 remain pending in the case.

Claim Rejections Under 35 USC § 112

In respect of claims 9 and 16, Applicant has now referenced the real time aspect as kindly suggested by the Examiner. It is believed that the rejection is now moot.

Claim Rejections Under 35 USC § 102

The Examiner has applied the Kalina reference (United States Patent No. 5,970,480) as being anticipatory of all of claims 1 through 16. Applicant has now amended the independent claims in this case, namely claims 1 and 13, to highlight the fact that purchase of goods or services in accordance with the claimed method are performed by the user of the good or service. Further, it has been clarified that the credit or debiting of the non cash redeemable points is for use or payment by the user and that the points are usable in their entirety for the purchase of a good or service or in combination with cash, i.e. the combination of cash and points to purchase the good or service by the user.

These amendments are considered sufficient to overcome the applicability of Kalina and the Examiner's attention is respectfully requested.

In the Kalina system, Applicant acknowledges the fact that there are similar features with respect to password entry, a customer card, bank information, etc., however, there is a significant departure in the Kalina method relative to the presently claimed method. One of the primary differences is that the Kalina reference does not provide any teachings regarding the possibility of allowing purchases at a merchant location and further the purchasing is not performed by the user, but rather the vendor of the investment vehicle. The Examiner's attention is directed to column 4 beginning at line 66 wherein it is indicated:

"The customer account 76 number of the customer's award is located in memory 72. The award is converted to a cash value and an investment vehicle is purchased at investment center 82. The award customer is notified and data is transferred through common bus 78 into central system main computer 50 for monitoring customer investment account. A periodic statement is issued to the award customer showing account number, investment vehicle purchase, price paid and increment purchased, amount of accumulated credit awards used and amount of rewards remaining."

Commissioner for Patents
Reply to Office Action of December 1, 2006
Page 6

Serial No. 09/892,615

No interface by the user from its award is possible; the awarded customer is effectively blocked from any further interaction with its award. This is significantly different from what is presented in the instant application. In Applicant's system, the user of the system purchases a good or service and points of a non cash value are awarded to the user. At this point, the user even at the merchant location can immediately purchase any other good or service at that time from the merchant without having to act through a third party. Further, the good or service can be purchased entirely with the points or can be purchased with a combination of points and cash to offset the deficiency in any points required to purchase the good or service. These features are absent the teachings of Kalina altogether. As a further point of distinction, the Kalina system is completely limited to the purchase of an investment vehicle and there is no discussion of any other service. There is no discussion whatsoever concerning the possibility of purchasing goods, i.e. any article sold by a participating merchant.

One of the further major distinctions in the Kalina reference relative to Applicant's claimed invention can be seen in that Kalina only facilitates the credit of users with rewards; it is not possible for users in the Kalina system to access accumulated rewards to purchase goods and services immediately from the merchants.

Applicant has elucidated these points in the independent claims and by this series of amendments, it is believed that the objections under 35 USC § 102 are overcome and that the method stipulated defines patentable subject matter over the teachings of Kalina. It is also submitted that the Kalina reference is insufficient to support obviousness of the claimed invention; Kalina is deficient claimed features of the present case and therefore, the possibility of an obviousness issue is moot.

Applicant respectfully requests the Examiner to carefully consider these points.

Respectfully submitted,

By: 

Paul S. Sharpe
Registration No. 39,493
Attorney for Applicant

PSS/lmf

Address: Ogilvy Renault LLP
1981 McGill College Avenue,
Suite 1600
Montreal, QC, H3A 2Y3
CANADA